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FISCAL IMPACT REPORT

SPONSOR McQueen/Martinez R **ORIGINAL DATE** 02/12/19
LAST UPDATED 02/13/19 **HB** 417

SHORT TITLE Southwest NM Water Projects **SB** _____

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	\$54,000.0	Recurring	New Mexico Unit Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Bill

HB 417 appropriates \$54 million in total from the New Mexico Unit Fund (NM Unit Fund) to the New Mexico Interstate Stream Commission (ISC) for expenditure in FY20 through FY24 for the following:

1. \$12 million for a Grant county regional drinking water supply project;
2. \$30 million for water utilization projects in the southwest New Mexico water planning region that comply with water trust board criteria and FY20 through FY24 infrastructure capital improvement plans; and
3. \$12 million to implement water utilization projects to provide a source of drinking water not derived from the Gila River for the City of Deming or Luna County.

Additionally, all unit fund payments for projects would require a 10 to 20 percent local funding match. Finally, funds unexpended at the end of FY24 would revert to the NM Unit Fund.

FISCAL IMPLICATIONS

The bill is unclear if local funding matches from sponsors could be greater than 20 percent.

A synopsis of background information and fiscal issues provided by the OSE:

1. The primary purpose of the NM Unit Fund is to support the development of a NM Unit to allow for the diversion and consumption of 14,000 acre-feet of water annually from the Gila and San Francisco rivers. If this bill is enacted, money in the NM Unit Fund would be appropriated in a manner that would foreclose the construction of any NM Unit.
2. In addition to the NM Unit, the ISC has vetted and provided partial funding for 16 water utilization projects (Non-Unit projects) in the southwest. The projects in this bill have not been vetted by the ISC.
3. HB 417 may eliminate funding that provides for salary and benefits for staff to manage the development of the NM Unit and non-unit projects, including proposed projects.

In response to OSE's concerns that proposed projects have not been vetted by ISC and the bill would prevent construction of the proposed NM Unit fund, the bill's proponents argue there is \$50 million in water projects to choose from that have been vetted through local infrastructure capital improvement plans for Grant, Luna, Catron, and Hidalgo counties and municipalities that benefit up to 60,000 people. As currently proposed, phase one of the NM Unit Fund is a series of diversion structures that supply existing irrigation structures that run water to storage reservoirs. Proponents of these structures say this approach allows water to be captured during wet periods to be stored for use during dry periods, primarily for irrigation purposes.

If the NM Unit is built, the NM CAP member-entities would be liable for maintenance costs for the NM Unit. The ISC has not provided an estimate of those costs nor a plan to pay those costs. Although liable for maintenance costs, the NM CAP Entity reports it does not have taxation authority. Enactment of HB 417 would fund a variety of city and county owned water projects; presumably, maintenance costs would be the responsibility of those local governments.

The NM Unit Fund balance as of September 2018 was \$54 million and another installment of \$9 million was deposited in January 2019. Additionally, the fund will receive two more \$9 million installments in 2020 and 2021.

HB 417 leaves intact the \$7.5 million that remains unexpended from the ISC award in 2014 of \$9.1 million for non-NM unit projects. Most of the funding appropriated for non-NM unit projects has not been spent because of matching funding requirements for project sponsors.

SIGNIFICANT ISSUES

A synopsis of significant issues provided by the OSE.

1. If this bill is enacted, New Mexico will foreclose the opportunity to use up to 14,000 acre-feet of additional Gila River water, granted to New Mexico by the U.S. Congress through the 1968 Colorado River Basin Project Act and the 2004 Arizona Water Settlements Act.
2. If the NEPA process for the NM Unit is completed by the statutory deadline of December

31, 2019, New Mexico will be able to access a separate source of up to \$60 million in federal funds for construction of the NM Unit. That additional funding cannot be used for any other purpose. This bill would hamper New Mexico's ability to complete the NEPA process by the statutory deadline; foreclosing access to this construction money.

3. Any money remaining in the NM Unit Fund in 2020 could help finance local water utilization projects as proposed in this bill. A joint powers agreement currently exists between the ISC and the NM CAP Entity to implement activities required by this bill. This existing process provides local input and ensures projects are properly vetted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 373 which changes the status of the NM CAP Entity to a political subdivision of the State with duties that include supplying Arizona Water Settlements Act water, providing water rights and developing water utilization projects in southwest New Mexico.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

In total, \$54 million would not be appropriated from the NM Unit Fund to ISC for expenditure in FY20 through FY24 for water projects in the southwest water planning region.

AHO/gb/sb